A Collection OF Such of the ORDERS heretofore used in CHANCERY.

With such Alterations and Additions thereunto, as

MICHAEL

Lord Arch-bishop of *Dublin*, Lord Chancellor of *IRELAND*.

Hath thought fit at present to ordain and publish, For

Reforming of several Abuses in the said Court; preventing Multiplicity of Suites, Motions, and unnecessary charges to the Suiters and for their more Expeditious and certain course for Relief.

Dublin, printed by *Benjamin Tooke*, Printer to the King's Most Excellent Majesty; And are to be sold by *Joseph Wilde* in *Castle-street*, 1673.

A COLLECTION OF Orders, TO BE USED IN CHANCERY.

THat no Subpœna be made returnable immediate, unless the party against whom it is to issue, be at the time of the Service thereof, in the City or Suburbs of *Dublin*; or within ten miles distant from the same, and that no Subpœna to answer be made returnable in the Vacation time, but within fifteen dayes before or after the Term. I.

II. That the Clerk of the Hannaper, take care that all Writs and what elſe ſhall paſs the Seal, be fairly entered in a Book, to be kept in that Office for publique uſe, and in regard the iſſuing of all Writs that are grounded upon Engliſh bills or proceedings thereupon, properly belong to the ſix Clerks, they are likewiſe to keep an exact entery of all ſuch Writs as they ſhall iſſue, to the end they may give the Court an accompt of the ſame when they ſhall be thereunto required.

III. That every Subpæna be ſerved perſonally, or the ſame (or a Copy thereof after ſhewing the ſaid Writ) left at the Defendants uſual place of reſidence, with one of the Family, to be given the Defendant, unleſs it be for payment of money, (in which caſe a perſonal ſervice is requiſite) But where the Defendant is out of the Land, or cannot be found, and yet proſecuts a Suit at Law, or in this Court for Relief againſt which Suit the Bill is exhibited, upon Affidavit made that he is out of the Land, or cannot be found, the Court doth uſually Order the Subpæna to be left with his Atturney at Law, or in this Court as the caſe requires, and that to be a good ſervice.

IV. That upon taking out the Subpæna to anſwer, or at fartheſt, before the return thereof,

thereof, the Bill be filed, and in caſe of a Subpæna returnable immediate the Bill is to be filed before the writ be ſerved, and that on penalty of good coſts; and that no Subpæna *Ducenſ-tecum* iſſue without Order made in open Court.

That no Attachment (for not appearing on a Subpæna) do iſſue out but on Affidavit firſt made, and filed of the time and place of the ſervice of the ſaid Subpæna, and of the return thereof, whereby it may appear that ſuch ſervice was made two dayes at leaſt before the return thereof, if the ſervice were in *Dublin*, or within twenty miles thereof, and that ſuch ſervice was made four dayes at leaſt (excluding the day of ſuch ſervice) before the return thereof, if the ſervice was made above twenty miles diſtant from *Dublin*, and if the Defendant do not appear, and anſwer within eight dayes after the return of the Subpæna, then and not before, the Attachment is to iſſue, and in caſe of a Subpæna returnable immediate, there no Attachment for not appearing and anſwering is to iſſue, unleſs upon the like Affidavit, and its appearing thereby that the writ was ſerved at leaſt ſix dayes before (Excluding the day of ſuch ſervice) and the Attachment in the Caſes aforeſaid may be iſſued of courſe, and V.

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the Regiſter is not to hinder them without ſpecial direction of the Court.

VI. That in caſe of Attachments ſo iſſuing as aforeſaid, the ſame are not to be diſcharged but on payment of ten ſhillings coſt, if the Subpæna was perſonally ſerved, and five ſhillings coſts, if otherwiſe, beſides the uſual coſts of the Attachment.

VII The Council is to be careful, That Bills, Anſwers, Exceptions, Interrogatories and other pleadings do not contain needleſs repetition of Deeds, Writings or Records *in hæc verba*, but onely the effect and ſubſtance thereof, and that which is Pertinent and Material to be ſet down, and that all Pleadings be ſigned by Council allowed to practice, with his own hand, being firſt peruſed by him in the Paper draught, before it be Ingroſſed, and the ſaid Pleadings are to be fairly Ingroſſed without Raiſures, Blottings or Interliniations, and to be ſigned by the ſix Clerk towards the Cauſe.

VIII. That if any Pleading ſhall be found to contain any matter meerly Scandalous, both the parties and Council on whoſe ſide and under whoſe hand it paſſeth, ſhall pay good coſts to the party Injured, and ſuch Council ſhall receive the reproof of the Court, and the Crime will be adjudged

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more groſs, if it ſhall appear that ſuch pleadings paſſed his hand without a deliberate peruſal.

That after the Defendant hath ſworn his anſwer, it ſhall not be redelivered unto him, but to his Atturney, who is to take care the ſame be forthwith entred and filed. IX.

That in caſe a Plantiff or Defendant dye, depending a ſuit, Subpænas and Bills of revival be of courſe taken out and Exhibited, which being done after ſervice and return of the Proceſs, all the proceedings in the former ſuit ſhall ſtand revived, and the parties may thereupon proceed accordingly. X.

That an anſwer to the matter charged, as the Defendants own fact, ought regularly to be poſitive without ſaying it is to his remembrance, or as he believeth, if it be laid to be done within ſeven years before; unleſs the Court upon Exception taken, ſhall find ſpecial cauſe to diſpence with ſo poſitive an anſwer; and if the Defendant confeſs not the fact, he muſt deny it directly and poſitively, and not by way of Negative pregnant, and if a fact be laid with circumſtance, the Defendant muſt not anſwer it Literally onely, as it is laid in the Bill, but muſt anſwer the point in ſubſtance poſitively and certainly. XI.

XII. That if Exception be taken to an answer, they are to be delivered the Defendants Atturney in Court the same Term the answer is filed, or within eight dayes after that Term, or if the answer be filed in the Vacation, then within eight dayes after the first General Seal after the filing thereof, and if the Defendant or his Atturney shall either satisfie the plaintiff of the Invalidity of the Exceptions, or put in a better answer, and pay twenty shillings costs, either within four dayes after such delivery of the Exceptions, in case the same be delivered within the Term, or within four dayes after the next General Seal, after the delivery thereof, in case the Exception were delivered out of the Term, then the plaintiff may proceed if he see cause, no Reference being to be moved for within the time aforesaid, touching the insufficiency of the answer: but if the Defendant shall not satisfie the plaintiff as aforesaid, or that the answer he supposeth to be perfect be conceived insufficient, then the plaintiff may procure the same to be referred, but in case the answer be reported sufficient, the plaintiff is of course to pay forty shillings costs to the Defendant, and if a second answer be returned insufficient, then three pounds, & upon the third four pounds, and upon

upon the fourth five pounds coſts, and then to be committed alſo till he be Examined, and anſwer fully upon perſonal Interrogatories touching the points defective in his anſwer, and pay the coſts, and no new exceptions are to be inſiſted upon but what were put into the firſt anſwer.

XIII. If on Reference to a Maſter, of Exceptions to a ſhort anſwer, the ſame be certified full and ſufficient, the plaintiff is to pay the Defendant forty ſhillings coſts, within four dayes after the Report filed, but if certified inſufficient, a Subpæna may be of courſe taken forth after five dayes for a better anſwer, and the Subpæna is alſo to contain a clauſe for the forty ſhillings coſts, but if Exceptions ſhall be in either caſe taken to the report of the Maſter, the ſame are to be filed within five dayes after the report filed, and before they ſhall be received by the Regiſter, the former coſts are to be paid, and forty ſhillings depoſited by the Exceptant with the Regiſter; And if the Exceptions be ruled againſt the Exceptant, the forty ſhillings is to be delivered to the other party, but if ruled for the Exceptant, then the money depoſited is to be redelivered to the Exceptant with forty ſhilling coſts from the other party, beſides the forty

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ſhillings to be repayed him, which was by him at firſt paid as coſts upon the Maſters Report.

XIV. That if a hearing be prayed upon bill and anſwer, the anſwer muſt be admitted to be true in all points, and no other evidence admitted unleſs it be matter of Record, to which the anſwer particularly refers and is provable by the Record; But in caſe the Court ſhall find no ground for giving a Decree thereon, the Bill is to be diſmiſſed with ſuch coſts as the Court ſhall ſee cauſe, or the Plaintiff (if he deſire it) may be admitted to reply, he firſt paying the Defendant or his Clerk fifty ſhillings coſts; which if he pay not within four dayes after the hearing then the diſmiſſion is to ſtand, and the Order is to be entred accordingly.

XV. That if in any cauſe the plantiff ſhall proceed to examine Witneſſes, and ſhall prove no more then what is confeſſed by anſwer, ſo that he might as well have gone to hearing on Bill and anſwer in that caſe, although he obtain a Decree, yet he ſhall pay the Defendant the coſts expended after his anſwer.

XVI. That if the Defendant live twenty miles from *Dublin* or upwards leaving notice with the Plantiff, Atturney, the ſaid Defen-

fendant may have an order of course, for a Commission to answer the first time, the said Commission to be made returnable in thirty dayes after the return of the Subpæna, and directed to Commissioners nominated by the Atturneys, or in case the Plantiffs Atturney do not within two dayes after tender of the names of the Defendants Commissioners, joyn, then, to such Commissioners as the Master of the Rowles shall nominate; but no answer is to be taken by Commission after the first, or when the Defendant stands in contempt, without order of Court.

XVII. That no Demurrer to the whole Bill, nor any Plea to the jurisdiction of the Court, or indisability of the person, shall be received by Commission, nor any Plea or Demurrer at all admitted where the Defendant stands in contempt to a Commission of Rebellion, without the special order of Court, and all Pleas, except of matter of Record, are to be sworn.

XVIII. That in the conclusion of every Plea not containing onely matter of Record or referring onely thereunto, there be an averment and as well Pleas as Demurrers, are to express the several causes of such plea or demurrer, and to demand the judgment of the Court, and so to be entered with the Register, and filed, and within six dayes after

ter, notice thereof is to be given the plaintiffs Attorney, and the Defendant within that time is to procure the ſame to be ſet down to be hard, or in default of ſuch entry, filing notice, or procuring the ſame to be ſet down as aforeſaid, the ſame is to be diſallowed by an order of courſe (without motion) and the plaintiff may then take out proceſs to inforce the Defendant to make anſwer over, and to pay forty ſhillings coſts, and in caſe the Defendant upon hearing of any ſuch plea or demurrer be over ruled, he is to pay forty ſhillings coſts, but if allowed, he is to have forty ſhillings coſts; And more then one plea or demurrer, is not to be put into the ſame Bill.

XIX. And if all the cauſes of Demurrer expreſſed be diſallowed, and yet the Demurrer ſhall be allowed for ſome other cauſe not expreſſed in the Demurrer, in that caſe the Defendant ſhall nevertheleſs pay coſts.

XX. Replications are not to depart from the Bill, or contain new matter (except in avoydance of matter alleadged in the anſwer) but onely to affirm the Bill and Travarſe or deny, confeſs or avoyd the Defendants anſwer.

XXI. The Defendant being ſerved with a Subpæna to Rejoyn, &c. (and Affidavit made of the ſervice) is within four dayes next after

after the return thereof to enter and file his Rejoynder, and his Clerk is upon filing his answer, to have ready the names of four such persons as the Defendant shall think fit to joyn with the Plaintiffs Commissioners for examination of witnesses, and within the said four dayes to tender the same to the Plaintiffs Clerk, who is also then to tender to the Defendants Atturney, the names of four other persons for Commissioners for the Plaintiff. And if the Defendants said Clerk shall refuse or delay (to the end of the said Term) to joyn in Commission, the Plaintiffs Clerk may by order of course take out a commission *ex part* to be directed to such Commissioners as the Court, or the Master of the Rowles shall appoint, from and after which time the defendant shall be barred from having any Commission to examine his witnesses without special Order of Court.

XXII. When any Plaintiff after the defendant hath fully answered his bill, shall for two whole Terms after, forbear to file his Replication, he shall be dismissed with costs upon motion, and if the Plaintiff after the defendant hath been at charge in taking out a certificate in order to a dismiss (meerly to prevent the same) shall put in a Replication, then the *Defendant may* (*if he will*) there-

to forthwith rejoyn gratis and move the Court to enforce the Plaintiff to go to a Commission, or in default thereof, that the Defendant may have a Commission *ex part* to such Commissioners as the Court or the Master of the Rowles shall appoint, or Examine his Witnesses in Court.

XXIII. When Witnesses are to be Examined, the Council, who signs the Interrogatories is to take care that they be onely to points material and not leading, and the Examinator or Commissioners (whose duty it is) are themselves to Examine, and not trust the same with inferior Clerks, and to take care to keep the Witnesses to the point Interrogated, not permitting them to run into extravagancies.

XXIV. The six Clerks are to take care that they give the clerk for the adverse party in writing the names and dwelling places of such Witnesses, (and before which of the Examinators they intend to Examine them) four dayes at the least before they proceed to their Examinations, to the end the said adverse party may exhibit cross Interrogatories to the said Witnesses, if he think fit, but in case the party to be Examined be in danger of death upon affidavit thereof shorter notice may serve, and the Examinator is to take care, that he Examine no Wit-

Witneſſes before he be well ſatisfied ſuch notice be given.

That neither Commiſſioners nor Exami- XXV.
nators of the Court do permit any Witneſſes to read over the Interrogatories, nor to ſuffer any Witneſſes to have the Interrogatories in his cuſtody before he be examined, or to pen his own depoſitions, or depart before he be fully examined; and the ſaid Commiſſioners and Examinators are to take care that each Witneſs ſubſcribe his own depoſitions, after which no alteration is to be made thereof without order of the Court, and the ſaid Commiſſioners are to take care that neither they nor their Clerks make any diſcovery of any matter depoſed before them, till Publication be had in the cauſe by order of Court therein, and the Commiſſioners are to ſet down the Examination of every Witneſs at large without referring the Teſtimony of one to another, and the Examinators are to be careful that no Impertinencies or idle repetitions be ſet down, nor is any anſwer to be ſet down otherwiſe to ſuch Interrogatory to which the deponant cannot at all depoſe then thus, *viz.* To ſuch an Interrogatory he cannot depoſe.

The Examiners are to take care that they XXVI.
imploy under them in their Office none but per-

persons of known integrity and ability, who shall take an Oath not to deliver or make known directly or indirectly to the adverse party or any other (save the Deponent who comes to be Examined) any of the Interrogatories delivered to be examined upon any Examination by him taken or remaining in the Examinators Office, or breviate thereof before publication be thereof past, and copys thereof taken, and if any such Deputy, Clerk, or person so imployed shall be found faulty in the premisses, he shall be expulsed the Office, and the Examinator who so imployed him, shall be also answerable to the Court for such misdemeanors, and to the party grieved for his costs and damages sustained thereby, and such Sollicitor, or other person who shall be discovered to have had a hand therein, shall be lyable to such censure for the offence, as the Court shall find just to inflict upon him.

XXVII. The Council and six Clerks are to take care, that they exhibit not any Interrogatories to invalidate the credit of any witness, except by Order of the Court; which will very sparingly be granted, and never but where exceptions unto such witnesses are first put in writing, and filed with the Examinator, and notice thereof given to the adverse party or his Atturney.

That

That no new Interrogatories be admitted to Examine any witneſſes, after the ſame witneſſes have been once examined upon Interrogatories entered in Court for the ſame party in the ſame cauſe; neither are any witneſſes at any time (without order of the Court) to be examined in any cauſe after an order for publication paſt, and a copy thereof ſent to any of the Examinators, although the witneſs be ſworn before ſuch orders delivered, neither will any Depoſitions taken by any Examinator (for want of ſuch notice) after publication, be made uſe of, upon the hearing of the cauſe without conſent of parties, or their Clerks, or order of Court in that behalf; and when any of the Examinators hath received an order for publication in a cauſe, he is forth with to give notice thereof to the other Examinator, to prevent the Examinating of any more witneſſes in the ſame cauſe. xxviii.

That if a witneſs Summoned to be examined by the Examinator ſhall appear to him to be under age, or not capable to underſtand or anſwer Queſtions, as a witneſs ought to do, the Examinator is not to proceed without advice of the Maſter of the Rowles, or in his abſence of a Maſter of the Court, and if they ſhall judg him fit to be xxix.

examined; yet if they please they may injoyn the party to be present in Court upon the hearing.

xxx. That where the Plaintiff and Defendant joyn in commission for Examination of witnesses, the Plaintiff is regularly to have the carriage of it, but if through his own or his Commissioners default, the same be not Executed, he shall pay the Defendant such costs as the Court (being satisfied of such default) shall think fit, and then may renew his commission by order of Court, at his own charge, and the Plaintiff to have the like Rule on the like default of the Defendant or his Commissioners, in case he have the carriage thereof, and where any Defendant have joyned with a Plaintiff in taking out of a commission, find cause to suspect, that the Plaintiff will not have the same Executed, the said Defendant upon Affidavit to that effect, may take out a Duplicate thereof, and giving timely notice (as the Plaintiff was to have done) may prosecute the same to a due Execution, and return as the Plaintiff should have regularly done.

xxxi. That no commission *Ad examinandum testes* be Executed in *Dublin*, or within ten miles of it, without special order first obtained upon Affidavit made of the parties inabili-

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ty to travel, or other good matter, and that all Depoſitions taken by commiſſion in *Dublin*, or within ten miles thereof, without ſpecial order as aforeſaid ſhall ſtand Superceded and ſuppreſſed *Ipſo facto*, and not allowed to be read as an evidence at the hearing, and the parties who ſhall cauſe the ſame to be Executed, ſhall ſuffer ſuch puniſhment for their contempt and Irregularity as the Court ſhall think fit.

That when upon motion on the behalf of either party, Plaintiff, or Defendant, the Court doth order that uſe may be made of any depoſitions formerly taken (in the ſame Court) in another cauſe between the ſame parties (or thoſe under whom they claim) touching the ſame matter in queſtion: It is thereby to be intended that the other party have the ſame benefit of the Depoſitions, and both parties have liberty of their lawfull exceptions at the hearing to any of the ſaid witneſſes ſo formerly examined. xxxii.

That the Atturney for either party, Plaintiff or Defendant may in the preſence of the Atturney on the adverſe part, with the Regiſter of the Court (without moving the Court) ſet down the firſt Rule for publication within four dayes, which four dayes being paſt, and no cauſe ſhewed, the Court is to be moved again, and then the Court will xxxiii.

give a peremptory Rule without further motion, unleſs good cauſe ſhall be ſhewed to the contrary. Provided that the firſt Rule be given in Term time, or by the firſt Seal after Term.

xxxiv. That if both parties joyn in commiſſion and the one party examine all, and the other not, but prayeth a new commiſſion, it ſhall not be granted, unleſs the other party be content, or upon Oath made of good cauſe why he could not examine all his witneſſes at the Execution of the former commiſſion.

xxxv. That all Proceſs of contempt, writs of *Scire facias* and other proceſs (by which the party is to be Impriſoned, or Seiſure of the Eſtate is to iſſue) are to be made into the county where the party is reſident, unleſs the party proſecuted be in and about *Dublin*, and then it may be made into that place alſo: But upon making it appear that the party cannot be found, or is beyond the Sea, the ſame may iſſue into any county where the Eſtate lyeth.

xxxvi. That Attachment of courſe, and other proceſs of contempt before a Serjeant at Arms after due obedience, ſhall be diſcharged upon payment, or tender to the Clerk on the other ſide of the charge of the proceſs, and ten ſhillings beſides. But if the con-

contempt be for not paying of costs awarded by the Court, he is besides the ten shillings to pay double the costs of the process before he be discharged.

That where the party shall be brought in by process, or appear gratis to be examined upon contempt, he shall give notice of his appearance to the Atturney on the other side, and if in four dayes after such notice, and appearance, Interrogatories shall not be exhibited, to examine him upon, or if examined, and no reference be procured of his examination, nor commission taken out, nor witnesses examined to prove the contempt within four dayes after such examination; the party examined is upon motion to be discharged, and costs taxed, if the Court see not good cause to detain him But if after appearance and interrogatories exhibited, he shall depart before he be examined, without leave of the Court, he is to stand committed, and not to be discharged till he be examined, and cleared of his contempt, and if found in contempt to pay costs, and if cleared shall have no costs, for such his contempt in departing after he had appeared, without leave as aforesaid. xxxvii.

That on prosecution of a contempt for breach of an order, or otherwise grounded on an Affidavit, the Interrogatories shall not xxxviii

extend to any matter not comprehended in the order or affidavit.

xxxix. That where the party examined denies the contempt, the profecutor may of courſe take out his commiſſion to prove it, and in ſuch caſe the party proſecuted may name one commiſſioner to be preſent at the Execution thereof, and croſs examine the witneſſes, but not to examine any of his part without leave of the Court by ſpecial order, and the Interrogatories on both ſides to be included in the commiſſion.

xl. That in caſe of a contempt proſecuted againſt one, who by reaſon of Age, Sickneſs, or other cauſe is diſabled to travel, or if againſt any that are Servants or Workmen, and live far off, the Court on motion and Affidavit thereof, will grant a commiſſion to examine them in the country, which is to be at the charge of the party deſiring it.

xli. That on Examination of contempts referred to a Maſter, the Maſter in his Report may Aſſeſs, and certifie the coſts to either party for whom he Reports without motion or order for the ſame.

xlii. That when Oath ſhall be made of a miſdemeanor in Beating or Abuſing the party upon Service of the Proceſs or order of the Court, the party offending is upon motion

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to be committed till the Court ſhall order upon the nature of the offence to diſcharge him, and when Affidavit ſhall be made by two perſons of ſcandalous or contemptuous words againſt the Court, or the proceſs thereof, the perſon offending ſhall likewiſe ſtand committed upon motion without any further examination, and a ſingle Affidavit in ſuch caſe ſhall be ſufficient to ground an Attachment, whereupon ſuch perſon ſhall be brought in to be examined, and if the miſdemeanors ſhall be confeſſed or proved againſt him, he ſhall ſtand committed until he ſatisfie the Court touching his ſaid miſdemeanor, and pay the proſecutor his coſts, and if he ſhall not be thereof found guilty, ſave by the Oath of the party who made ſuch Affidavit, he ſhall be diſcharged, but without any coſts in reſpect of the Oath made againſt him as aforeſaid.

That no proceſs of Attachment, Proclamation, commiſſion of Rebellion, or Serjeant at Arms be made returnable out of Term without ſpecial order of Court (except within the time Limitted for returns of Subpænas) and not to be made returnable immediate, unleſs to apprehend a perſon living within the county of the City of *Dublin*, or within ten miles of the ſame, and the Sheriff in ſuch caſe not to be fined xxiii.

for not returning his writ, till ſix dayes be paſt, after delivery thereof to his hand. And if the ſame iſſue to apprehend a perſon living at a farther diſtance, the Sheriff is not to be fined for not returning the ſame, till eight dayes after the return thereof, and no motion to be made in Court for fining a Sheriff for not returning his writ, till he hath at leaſt one day before been firſt publickly called on for the ſame in Term time by the Cryer in Court, and no Attachment is to iſſue to the Purſevant without ſpecial order of Court directing the ſame.

xliv. That no Injunction will be granted to ſtay Suits at Law upon priority of Suits onely, nor on the bare Surmiſe in the Bill, but on the Defendants delay or contempt in not appearing or anſwering, or in not perfectly anſwering, and the ſame appearing to the Court, or on matter confeſſed in the anſwer, matter of Record, or writing plainly appearing, or the duty demanded appearing very antient, or when the Bill is to be relieved againſt a debt ſued for at Law, and it appears the creditor and debtor have been both dead for a conſiderable time before the action brought.

xlv. That where a bill comes in after a verdict for a debt due on a ſpecialty, an Injunction is not to be granted without depoſiting the

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principal money, except there appear to the Court in the Defendants anſwer, or by deed under hand and Seal, or otherwiſe, good matter of releiſe in equity.

xlvi. That when an Injunction is granted till anſwer and further order, if no order be made within twelve dayes after the anſwer duly filed in Court, and notice given thereof to the Plaintiffs Atturney, touching the continuance of the Injunction, if the ſame be filed in Term, the ſame is to ſtand diſſolved without motion, but if it be filed in the Vacation, then if an order be not in like manner made, the ſecond publick Seal next after the filing and notice given thereof as aforeſaid, the ſame is to be diſſolved as aforeſaid.

xlvii. That Injunctions to quiet Poſſeſſions will not be granted before hearing the cauſe, but upon oath made of an actual poſſeſſion at the time of the bill exhibited in the plaintiff, or thoſe under whom he claims, and for the ſpace of three years before, and alſo upon ſatisfaction to the Court out of the Defendants anſwer, or by other good matter that the title of the Plaintiff is not determined, but no Injunction without ſpecial order and expreſs words ought to hinder any extent or execution actually upon the Land, or to hinder the Defendants proceedings

dings at common Law to evict the Plaintiff, nor from making any Leaſe, peaceable entry, or ſingle diſtreſs for that end:

xlviii. That Injunctions againſt Felling or Barking Timber, Plowing-meadowes, or antient paſture-grounds, or for maintaining of Antient Incloſures, the ſame being *pro bono publico*, are to be granted as uſually, but if the Defendant have anſwered, and claims an Eſtate of Inheritance to his own uſe, or under ſuch Title or Eſtate as is diſpuniſhable of waſt, he is not to be reſtrained.

xlix. That in all caſes of Injunctions if he that obtains the ſame, delay proceedings, or bringing the cauſe to hearing, the Court will take that for a good ground to diſſolve the Injunction.

L. That the Maſters of the Court are not to return ſpecial certificates, unleſs the Court require it, or their own judgment in reſpect of dificulty lead them to it, and their reports are to be as ſuccinct as may be without needleſs recitals, unleſs in caſe doubtful they ſhortly repreſent the reaſons inducing them thereunto, and if the Court requires to be ſatisfied touching matters confeſſed or denyed in the defendants anſwer, or in any Examinations, Depoſitions, other matters referred, the Maſters are to con-

consider the whole answers, Examinations, Depositions, and matters referred, & report the same to the Court, that they may be satisfied whether there be any thing that avoids a confession or ballances the same.

That if the Master Reports positively, his certificate is to stand, and process to issue within six dayes after fileing thereof, to enforce performance, unless within five dayes after the report filed, the adverse party enter exceptions and deposit the usual costs, and then such proceedings are to be made thereupon, as upon exceptions to reports, concerning sufficient and insufficient answers, and the Master is to certifie that both parties were heard, or Affidavit made, that notice was given of the time and place of the referrence. Li.

The Masters are to be circumspect & wary in giving Oaths, that they be Reverently and knowingly given and taken, and are therefore to Administer the same themselves to the party, & where they discern him rash or ignorant, to give him some conscionable admonition of his Oath, and be sure he understandeth the matter contained in the Affidavit, and read the same over, or hear it read in his presence, and subscribe his name or mark thereunto, before the same be certified by the Master, who is not to receive Lii.

ceive or certifie any Affidavit, unleſs the ſame be fairly and legibly written, without blotting or enterlining any word of Subſtance.

liii. That every perſon deſiring to ſue *In forma Pauperis* is to have the certificate of ſome Councel, that he hath probable cauſe of Suit, and is to make affidavit that he is not worth five pounds, beſide the thing in queſtion, and he is onely to have admittance in one cauſe without ſpecial order.

liv. He that defends *In forma Pauperis*, is to obſerve the ſaid Rules, onely the certificate of the Councel diſpenced with, upon the parties admittance he is to enter it with the Regiſter.

lv. If any perſon ſue *In forma Pauperis*, and appear to the Court that he is worth above five pounds, beſides the matter in queſtion, or hath ſold or contracted for the benefit of the Suit, or any part thereof, the cauſe is to be diſmiſſed, and the party to be puniſhed.

lvi. No Proceſs of contempt ſhall be made forth and ſent to the great Seal, at the ſuit of any perſon proſecuting as Plaintiff *In forma Pauperis*, untill it be ſigned by the Clerk that deals for him, and ſuch Clerk is to take care that ſuch proceſs be not taken out needleſly, or for vexation, but upon

juſt

juſt and good cauſe, as they will anſwer it. to the Court, if the contrary ſhall appear.

lvii. Councellors and Atturnies are to make motions proper for themſelves, and after a cauſe is ſetled (hearing Council on both ſides) no new motion is to be made to croſs it, except it be upon new matter, and unleſs they be ſure the matter ſo alleadged be weighty and will be well proved, and when any motion is made, the laſt order is alwayes to be produced, and any order obtained without producing the laſt order, to be void, and the coſts occaſioned by the neglect to be paid to the party agrieved; and all Affidavits, certificates and reports, to be entered before any motion be made thereupon.

lviii. None but Decretal orders are to be entered after ten dayes, to be Reckoned from the day of the order pronounced, and if the party on whoſe behalf the motion was made, enter not the order in ſix dayes, the regiſter may enter it at the inſtance of the adverſe party, but in caſe any intricacy appear in any order made upon hearing Council on both ſides, the party in whoſe favour the ſame was made, is to ſhew the ſame to the Council, of the other ſide who is within ſix dayes after the order ſhew'd him, to give his exceptions to the ſame in writing, or elſe the

ſaid

ſaid order is to be entered without further
lix. delay.

That no order be binding to either party which is made upon Petition, in a cauſe depending in Court, and that no extent iſſue upon a Statute acknowledged twenty years before without ſpecial order, nor *Liberate* upon any extent without order, and that the Clerk of the Hannaper Seal no ſuch Writ, without having his order for it, ready to be produced.

lx. That all Pleas, Demurrers, and exceptions to reports are to be ſet down to be heard on motion dayes, or on other dayes after the cauſes appointed for that day, and in order as they were moved.

lxi. That at the end of the Term, the Regiſter is to move the Court to appoint dayes for the publick Seals, as well after the Term as at the beginning of the next Term, as alſo for a day to ſet down cauſes to be heard the next Term, at which time, the ſix Clerks are to attend, and all cauſes are to be ſet down regularly, according to the time of their Publication, and the ſix Clerks is to give a brief accompt of the nature of the cauſe ſo ſet down, and the Regiſter is to take care that the cauſes ſo ſet down, be heard in the ſame order.

lxii. Then every decree pronounced by the Lord

Lord Chancellor in any cauſe or order made upon debate, or containing any difficulty be openly read in Court by the Regiſter immediately after the pronouncing thereof, for prevention of any miſtakes in the drawing up of the ſame.

lxiii. That every Subpæna to hear judgment be perſonally ſerved, or left at the parties uſual place of reſidence, ten dayes at leaſt before the return thereof, except by the conſent of the Atturneys on both ſides, a ſhorter time be agreed upon, or ſpecial order of Court, and where it ſhall appear by Affidavit, that the party to be ſerved hath no certain reſidence, or is beyond the Seas, then the Subpæna left with his Atturney in Court will be a good ſervice.

lxiv. That no cauſe be heard the ſame Term it is publiſhed, without ſpecial order of Court.

lxv. That where no council appears for the Defendant at the hearing, and proceſs hath been duely ſerved, the Defendants anſwer is to be read, and if the Court upon ſuch hearing ſhall find cauſe to decree for the Plaintiff, yet the Defendant ſhall have a day to ſhew cauſe againſt the ſame, but before he be admitted, he ſhall pay down ſuch coſts as the Court ſhall order, and the order is to be penned by the Regiſter according

ing

ingly, *viz.* It is decreed ſo and ſo, unleſs the Defendant by ſuch a day, pay the plaintiff or his Atturney in Court coſts, and ſhew cauſe to the contrary, and bring a certificate from the Plaintiffs Atturney that he hath payed the coſts.

lxvi. That when any decree is pronounced the Regiſter is not to draw up the decretal order, or order of diſmiſs, and give forth Copies thereof, without firſt ſhewing the draught thereof to the council for whom the decree paſſeth, who finding the ſame agreeable to what was pronounced in court is to ſubſcribe his name to the ſaid draught, and ſhew the ſame to the council of the adverſe party, who is likewiſe to ſubſcribe the ſame, or otherwiſe to give his objections in writing under his hand, againſt the ſaid draught, within ſix dayes after the order ſo drawn is ſhewed him, to the end the difference may be determined, but if within that time he doth not give his exceptions in writing, the order is to be entered forthwith, and the decree or diſmiſs drawn up ſigned and inrolled before the beginning of the next *Michaelmas* or *Eaſter* Term, which ſhall firſt happen next after the ſame ſhall be pronounced, and not afterwards without order of Court.

lxvii. That no decree is to recite the Bill, Anſwer

ſwer, Pleadings, or Depoſitions *in hæc verba*, but onely the ſtate of the matter and proceedings, and the like Succinctneſs is to be uſed in drawing up of an *Executione decreti.*

That no Decree paſs to be grounded on lxviii.
conſent of parties, but upon opening Bill anſwer, and the ſtate of the matter in open Court, and the hands of Council on both ſides are alſo to be to the draught of the Decree, and that is to be ſhewed to the Lord Chancellor at the time he ſigns the ſame.

That in all cauſes wherein a *Decree* or lxix.
diſmiſs is pronounced upon full hearing, if no coſt be aſcertained by the Court, or mentioned at the time of the pronouncing thereof, then the party for whom the decree is given, may make up his bill of coſts to be taxed of courſe.

That no bill of review is to be admitted, lxx.
except it be for error in Law, apparant in the body of the decree, without ſeither averment or further examination of matter of fact, or except it be upon new matter riſen in time ſince the decree, whereof the party could not before have had advantage, which being made appear to the Court by affidavit, a bill of review may be exhibited, and in caſe of miſcaſting any ſum, the ſame

appearing demonſtratively to be a miſtake in the Auditing or Numbering, the ſame may be rectified by order, without a bill of review, and in caſe of a bill of review, the partie is to enter into Recognizance with ſureties of a fit penalty to anſwer all coſts and damages, if the bill of review be diſmiſſed and perform the decree made againſt him, except the performance of it extinguiſheth the parties right at common Law, as in making of aſſurances or releaſes, acknowledging ſatisfaction, cancelling of Bonds and Evidences or the like, and in that caſe the Court will diſpence with the performance of that part of the decree.

lxxi. That no cauſes diſmiſſed upon full hearing be retained again, or any new bill admitted, but upon new matter appearing by Affidavit as in a bill of review, but otherwiſe in caſe of other diſmiſſions which are not upon hearing the cauſe.

lxxii. That where the Plaintiff diſcontinues his proſecution after all the defendants that are ſerved, have anſwered, for the ſpace of two whole Terms, the cauſe is to be diſmiſſed by order of courſe, and forty ſhillings coſt for every defendant that anſwered apart, which coſt being paid, the plaintiff hath liberty to reply and proceed, or to file a new bill, if he pleaſe, but if the defendant expect

pect more coſts, he is to move the Court therein, but after replication no cauſe is to be diſmiſſed without order of Court.

lxxiii. That Officers who are paid by the ſheet, be careful that their Copies do contain fifteen lines in every ſheet, and ten words in every line one with the other, and that none of the ſaid Officers, or Clerks, do exact great Fees then are antiently due and accuſtomed.

lxxiv. And laſtly it is ordered that all Maſters of the Court of *Chancery*, Councillors, and all Officers, Miniſters, Clerks and Solicitors in the ſaid Court, do diligently, and carefully obſerve theſe Orders, which are to continue untill upon further conſideration and experience, any alteration ſhall be thought fit to be made therein.

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